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09/729,695	12/06/2000	J. Fung Chen	55071-042	6851

7590

06/19/2003

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EXAMINER

NGUYEN, TU T

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant N .

Applicant(s)

09/729,695

CHEN, J. FUNG

Examiner

Art Unit

Tu T. Nguyen

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-12,16-23,26-33 and 37-41 is/are rejected.
- 7) ☒ Claim(s) 3-5,13-15,24,25 and 34-36 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Detailed Office Action

Specification

The disclosure is objected to because of the following informalities: on page 5, line 8, after "1999" insert "now U.S patent No. 6,248,486".

Drawings

Figures 1-2,4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 28 is objected to because of the following informalities: claim 28 should be depended on claim 23 for better description of fig 6(a).

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in

section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2,6-12,16-23,26-33,37-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaise et al (6,296,977).

With respect to claims 1,11,21-22,32, Kaise discloses a system for measuring an aberration of an optical lens. The system comprises: a mask (column 5, lines 10-20), a plurality of features (column 5, lines 22-25) disposed on the mask which arranged so as to form a pattern on the substrate (columns 2-3).

Kaise does not explicitly disclose a predetermined pattern. However, Kaise discloses different arrangements of the patterns (columns 3-5 or figs 1-16). It would have been obvious that Kaise's features are in the predetermined patterns.

With respect to claims 2,12,23,33, Kaise discloses a feature having a square-shape cross-sectional configuration (fig 16). Kaise does not disclose the arrangement of the features to be a circular shape. Since Kaise taught arranging the features in different shapes (columns 3-4). It would have been obvious a designed choice to arrange Kaise's features to form a circular-shape or any different shapes for different purposes. The modification involves only routine skill in the art.

With respect to claims 6-7,9-10,16-17,19-20,26-27,29-31,37-38,40-41, it would have been obvious a design choice to modify Kaise's system with different feature shapes or

different predetermined pattern shapes or different kind of masks to enhance the testing.

With respect to claims 8,18,39, since Kaise discloses the method for the projection system (columns 3-4), Kaise inherently discloses the claimed limitations.

With respect to claim 28, Kaise discloses the sets of the features which overlapped in the X and Y directions (fig 16).

Allowable Subject Matter

Claims 3-5,13-15,24-25,34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior arts of record does not disclose the arrangement of the features as disclosed in the claims in combination with the base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T Nguyen whose telephone number is (703) 306-9185. The examiner can normally be reached on M-T 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular

communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Tu T. Nguyen
Primary Examiner
Group Art Unit 2877

16/14/03